

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

3:05-CR-270 (TJM/DEP)

vs.

DAVID J. FALSO,

Defendant.

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STATE OF NEW YORK     )  
COUNTY OF BROOME    ) ss.:

**DAVID J. FALSO**, being duly sworn, deposes and says:

1. I am the defendant in the above-entitled action. As such, I am fully familiar with the facts and circumstances of this case.

2. I make this affidavit in support of the pretrial motion to suppress statements allegedly made by me to law enforcement personnel.

3. On or about June 8, 2005, FBI agents and other law enforcement personnel came to my house. I was advised by Special Agent James T. Lyons that they were there to execute a search warrant they had obtained for my house.

4. Agent Lyons proceeded to ask me questions about possession of child pornography in my home. At no time did he or any of the other officers or agents provide me with Miranda warnings, or otherwise advise me that I could have an attorney present or that I did not have to answer their questions.

5. While they were conducting the search, they took me into the kitchen area of my home and kept me there. At least one person remained with me in the kitchen at all times and I was not free to leave. On one occasion, I stood up and went to go toward the

door to the garage. The agent with me told me to sit down, that I could not leave the kitchen.

6. After they completed the search, they handcuffed me and took me to a jail area where I was held.

7. I have been advised that the government intends to use statements against me in this case. These statements are contained in the Form 302 which has been provided to my attorneys and which I have reviewed. The statements contained therein were allegedly obtained during the search of my home. As I stated, I was not advised of my rights under Miranda. Nor did I consent to waive any of those rights.

8. I believe these statements to have been obtained in violation of my fifth amendment privilege against self-incrimination and my sixth amendment right to counsel. For this reason, I ask that they be suppressed.

WHEREFORE, any statements should be suppressed by the Court, together with such other and further relief as to the Court seems just and proper.

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David J. Falso

Sworn to before me this  
day of January, 2006.

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NOTARY PUBLIC